

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Agoston, Gregory E.)
Pribluda, Victor)
Green, Shawn J.)
)
Serial No.: 09/641,327)
)
Filed: August 18, 2000)
)
For: Method for Inhibiting Angiogenesis)
with 2-Methoxyestradiol)

Art Unit: Not Yet Assigned

Examiner: Not Yet Assigned

RECEIVED

DEC 12 2000

OFFICE OF PETITIONS

PETITION TO ACCORD A FILING DATE UNDER 37 C.F.R. §1.53 AND §1.17(i)/
RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

Assistant Commissioner for Patents
Office of Petitions
Washington, DC 20231

Adjustment date: 05/03/2001 LGIBBS
12/13/2000 LESTIF 00000007 09641327
01 FC:122 -130.00 OP

In response to the Notice of Incomplete Nonprovisional Application mailed October 6, 2000, to which a response is due on December 6, 2000, Applicants submit this Petition requesting that the original filing date of August 18, 2000 be accorded. Applicants enclose the statutory filing fee of \$355 for a small entity. Applicants submit that the application as filed was complete except for statutorily allowed missing parts. Therefore, the Declarations and Powers of Attorney will be forwarded upon receipt of the Notice to File Missing Parts.

12/13/2000 LGIBBS 00000007 09641327

01 FC:122 130.00 OP
02 FC:201 355.00 OP

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Office of Petitions, Washington, DC 20231 on December 6, 2000.

Reg. Ref: 05/03/2001 LGIBBS 0015290600
Date: 12/08/00 Name/Number: 09641327
FC: 704 \$130.00 CR

Suzanne Seavello Shope
Suzanne Seavello Shope - Reg. No. 37,933

REMARKS

Applicants claim small entity status under 37 CFR 1.27(c)(1).

The present invention is directed to analogues of 2-methoxyestradiol and their use in treating disease states.

By this Petition, Applicants hereby request entry of the attached Figure 1 and accordance of August 18, 2000 as the official filing date of the present application for the reasons indicated below.

1. MPEP 608.01(p)I.A.1. first paragraph states that "if an application is filed with a complete disclosure essential material may be . . . substituted by reference to a U.S. patent." The second paragraph states that if an application as filed incorporates essential material by reference to a U.S. patent, applicants' representative may file a copy of the printed U.S. patent with a statement that the copy consists of the same material incorporated by reference in the referencing application.

2. Page 6, lines 20-21 of the present specification incorporate by reference U.S. Patent Nos. 5,504,074 and 5,661,143. Col. 2, lines 39-42 of U.S. Patent No. 5,504,074 and Col. 2, lines 40-43 of U.S. Patent No. 5,661,143 briefly describe a Fig. 3. Applicants representative states that the Fig. 3 in the incorporated patents is the same figure as the Fig. 1 that was inadvertently omitted when filing the present application. Please note that page 9, lines 30-33 of the present application uses the same "brief description" of the figure to describe Fig. 1 as the two incorporated patents use to describe Fig. 3.

3. Applicants further submit that this figure is used as background information for the present invention, and is not a part of the new inventive features of the present invention. Because Fig. 1 was incorporated by reference from issued U.S. Patents, and is not necessary for enablement of the claimed invention, Applicants submit that the Office should consider the application filed August 18, 2000 was complete as filed. No harm to the public would result from entry of Fig. 1 and accordance of the August 18, 2000 filing date.

Based on the above arguments, Applicants respectfully request entry of the attached Fig. 1 and accordance of August 18, 2000 as the official filing date of the present application.

As suggested in the Notice of Incomplete Nonprovisional Application, this Petition states that application 09/641,327 is entitled to the filing date of August 18, 2000. Accordingly, this petition also requests a refund of the \$130.00 petition fee submitted herewith.

Also submitted herewith are copies of U.S. Patent Nos. 5,504,074 and 5,661,143, and the statutory basic filing fee for a small entity. The Declarations and Powers of Attorney will be filed with the response to the Notice to File Missing Parts.

The foregoing is submitted as a full and complete response to the Notice of Incomplete Nonprovisional Application mailed October 6, 2000. Early and favorable

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consideration is respectfully requested. If there are any issues that can be resolved by a telephone conference, a telephone call to the undersigned attorney is solicited.

Respectfully submitted,

KILPATRICK STOCKTON LLP

Suzanne Seavello Shope

By: Suzanne Seavello Shope
Reg. No. 37, 993

KILPATRICK STOCKTON LLP
2400 Monarch Tower
3424 Peachtree Road, NE
Atlanta, Georgia 30326
Phone: 404/949-2400
Fax: 404/949-2499

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